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In the Supreme Court of the United States

OCTOBER TERM, 1965

No. 16

SGT. JESSE E. SNAPP, PETITIONER

v.

W. D. NEAL, ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MISSISSIPPI

BRIEF FOR THE UNITED STATES AS AMICUS CURIAE

OPINIONS BELOW

The Chancery Court of Copiah County, Mississippi, rendered no opinion. The opinion of the Supreme Court of Mississippi (R. 46–61) is reported at 250 Miss. 597, 164 So. 2d 752.

JURISDICTION

The judgment of the Supreme Court of Mississippi was filed on June 1, 1964 (R. 62–63). The time for filing a petition for certiorari was extended by Mr. Justice Black to September 30, 1964, and then to October 29, 1964 (R. 63, 64). The petition for a writ of certiorari was filed on October 28, 1964, and was granted on March 8, 1965 (R. 65; 380 U.S. 931). The jurisdiction of this Court rests on 28 U.S.C. 1257(3).

QUESTIONS PRESENTED

1. Whether the federally granted exemption from personal property taxes imposed on a serviceman's motor vehicle by a State in which he is stationed (50 U.S.C. App. 574) is conditioned upon compliance with the registration and licensing laws of his home State.

2. Whether a State tax imposed upon a mobile trailer used as a home by a serviceman is a tax "imposed in respect to motor vehicles or the use thereof" within the meaning of that phrase in the Soldiers' and Sailors' Civil Relief Act of 1940.

INTEREST OF THE UNITED STATES

The United States has a well-recognized interest in insuring enforcement of the protections which Congress provided for the members of the armed forces in the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 U.S.C. App. 574). See *Dameron* v. *Brodhead*, 345 U.S. 322; *United States* v. *Arlington County, Commonwealth of Virginia*, 326 F. 2d 929, 931–932 (C.A. 4). Since the present case involves questions of broad importance to servicemen concerning the interpretation of a provision of that Act, we deem it appropriate to set forth our views on those issues.[1]

STATUTES INVOLVED

The pertinent statutes are set forth in Appendix A, *infra*, pp. 17–21.

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[1] For identical reasons, the government is also expressing its views in the companion case, *California* v. *Buzard*, No. 40. We are, however, filing only a short memorandum there, and we rely on this brief for the full statement of the views of the United States.

STATEMENT

Petitioner, a sergeant in the Air Force, is a permanent resident and domiciliary of South Carolina who is stationed in Mississippi under military orders. He purchased a house trailer in Greenville, Mississippi, on May 16, 1959. In October 1961, when he was transferred to Crystal Springs Air Force Base, the trailer was transported to his new location in Mississippi. It has not been on a Mississippi highway since that time, but has been parked at a trailer court (R. 13–14, 25). The trailer has wheels attached to it, but, when used as a home, as it has been since that date, it is supported by movable concrete blocks (R. 14). Since the trailer has never been in South Carolina, it has never been registered in that State; and petitioner has never paid the license fees required by South Carolina for trailers used within its borders (R. 13–14, 26).

Mississippi and its political subdivisions assessed an ad valorem tax on the house trailer, which was alleged to be due on November 1, 1962. Petitioner paid the assessment of $38.50 under protest (R. 14, 21), and filed an application for refund with the appropriate State officials (R. 12–15). Petitioner contended that Section 514 of the Soldiers' and Sailors Civil Relief Act of 1940 granted him an exemption from the personal property taxes of any State in which he was stationed (R. 12–17). When his application was denied, petitioner sought review in the Chancery Court of Copiah County (R. 2–3), which affirmed the action of the State Attorney General denying a refund (R. 40).

The Supreme Court of Mississippi affirmed, also holding that the tax had been properly assessed (R. 46–61). It recognized that the tax was an *ad valorem* personal property tax, and that Section 514 (50 U.S.C. App. 574) generally grants servicemen an exemption from a liability for such taxes when imposed by a State in which they are stationed. It held, however, that (R. 57–58):

> * * * Section 574 of 50 U.S.C.A. does not prohibit the levy of an ad valorem tax on motor vehicles unless the serviceman claiming the tax immunity has complied with the [motor vehicle registration] laws of the state of his domicile. This the appellant has clearly failed to do. * * *

INTRODUCTION AND SUMMARY

Sergeant Snapp is concededly a resident of South Carolina and not a resident of Mississippi, where he is stationed pursuant to military orders. Having purchased and kept his trailer in Mississippi, he was not required to, and did not, register it with, or pay license fees to, the State of South Carolina. The tax imposed on his trailer is, by the Mississippi court's own characterization, an *ad valorem* personal property tax. The principal question presented by this case is whether—even assuming Snapp's stationary trailer is a "motor vehicle" within the meaning of Section 514 of the Soldiers' and Sailors' Civil Relief Act—the Act permits a State to impose a personal property tax on a motor vehicle of a serviceman stationed within its borders.

One of the primary purposes of the statute is to define the residence of a serviceman and the situs of

his personal property in such a way as to preclude personal property taxation by any State in which the serviceman is present solely by reason of compliance with military orders. Mississippi contends, however, that this basic purpose of Section 514 is limited, as to motor vehicles, by Section 514(2)(b). This subsection specifies that the prohibition on taxation of income, personal property, or the use of personal property "shall include but not be limited to licenses, fees, or excises imposed in respect to motor vehicles or the use thereof: *Provided,* That the license, fee, or excise required by the State * * * of which the [serviceman] is a resident * * * has been paid." Mississippi construes the proviso as making the exemption from personal property taxes on motor vehicles conditional on the payment of license fees to the domiciliary State, and contends that since Sergeant Snapp did not make such payments to South Carolina, any motor vehicle owned by him was subject to *ad valorem* taxation by the State of Mississippi.

Unfortunately, there is no legislative history of Section 514(2)(b). Nevertheless, the wording and purpose of the statute make plain that Section 514(2)(b) has nothing whatsoever to do with *ad valorem* personal property taxes. It is solely intended to guarantee that a serviceman who registers his vehicle with—and pays the accompanying license fees to—his State of domicile, does not also have to do so to the State in which he is stationed. This is accomplished by extending the exemption from taxation by the State in which he is stationed to "include * * * licenses * * * imposed in respect to motor

vehicles" but by making this extension of immunity subject to the condition that "the license * * * required by the State * * * of which the [serviceman] is a resident * * * has been paid." The failure to pay motor vehicle license fees to the State of residence makes a serviceman subject to the licensing requirements of the State where he is stationed. But it in no way affects his exemption from personal property taxation by that State.

ARGUMENT

I. ONE BASIC PURPOSE OF SECTION 514, AS AMENDED IN 1944, IS TO FORBID THE TAXATION OF A SERVICEMAN'S PERSONAL PROPERTY BY A STATE IN WHICH HE IS STATIONED

The basic purpose of Section 514 of the Soldiers' and Sailors' Civil Relief Act is clear from its wording and structure. It defines the residence of servicemen, the source of their income, and the situs of their property for the purpose of exempting them from certain forms of taxation by the States in which they are stationed. Section 514(1) first provides that a serviceman "shall not be deemed to have lost a residence or domicile in any State * * * solely by reason of being absent therefrom in compliance with military * * * orders" and that he shall not be deemed "to have acquired a residence or domicile in * * * any other State * * * solely by reason of being, so absent." Section 514(1) then goes on to spell out the consequences of this statutory definition of a serviceman's residence. For the purposes of State income taxation, "compensation for military * * *

services shall not be deemed income * * * from sources within" any State "of which such person is not a resident." For the purposes of taxation "with respect to personal property, or the use thereof," personal property "shall not be deemed * * * to have a situs for taxation" in any such State.

In short, Section 514(1) eliminates the jurisdictional grounds that otherwise would support taxation of a serviceman's income or personal property by a State to which he has moved solely pursuant to military orders. As to taxation "with respect to personal property, or the use thereof," the all-inclusive scope of the statute is specified by Section 514(2)(a), which makes clear that "the term 'personal property' shall include tangible and intangible property (including motor vehicles)." Thus, if the statute went no further, it would be clear that the State of Mississippi lacks power to impose an *ad valorem* personal property tax upon the value of a trailer owned by a serviceman stationed in that State, for Section 514(1) provides specifically that such "personal property shall not be deemed * * * to have a situs for taxation in such state." Indeed, as the committee reports make clear, the prevention of such taxation was the very purpose of the 1944 amendments to the Act.[2] H. Rep. No. 1514, 78th Cong.,

[2] As originally enacted, the Soldiers' and Sailors' Civil Relief Act of 1940, c. 888, 54 Stat. 1178, contained no cognate of Section 514. That section was added by Section 17 of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942, c. 581, 56 Stat. 769, 777. However, the 1942 Act added only the rules that no residence or domicile was to be gained or lost due to military service and that compensation for military

2d Sess., pp. 1-2, and S. Rep. No. 959, 78th Cong., 2d Sess., pp. 1-5 (Appendix B, *infra*, pp. 22-25).

II. SECTION 514(2)(b) DOES NOT MAKE THE PAYMENT OF LICENSE FEES TO THE SERVICEMAN'S HOME STATE A CONDITION OF EXEMPTION FROM A PROPERTY TAX IMPOSED ON HIS MOTOR VEHICLE BY ANOTHER STATE

Mississippi has recognized that the statute is intended to furnish an exemption from taxation of a serviceman's personal property by a State in which he is stationed. It held, however, that, as applied to motor vehicles, this exemption is conditioned on the serviceman's prior payment of the license fees required by the State of which he is a resident (R. 57-58). We submit that the holding is inconsistent with both the wording and the obvious purpose of Section 514(2)(b).

A. THE LANGUAGE OF SECTION 514(2)(b) IS INCONSISTENT WITH THE HOLDING BELOW

Nothing in the language of Section 514(2) supports the decision below. That section provides that:

> (2) When used in this section, (a) the term "personal property" shall include tangible and

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service would not constitute income earned within the State in which the non-resident serviceman was stationed. Subsequent to the enactment of the 1942 Act, questions were raised regarding the effect of Section 514 with respect to personal property taxes and proposed legislation was submitted in 1944 to clarify the matter. H.R. No. 4733, 78th Cong., 2d Sess. (Appendix B, *infra*, pp. 25-27). The bill was rewritten in committee and ultimately enacted into law (Act of July 3, 1944, c. 397, 58 Stat. 722), adding to Section 514 the rule that personal property was not to be deemed to have a situs for taxation in the State in which a non-resident serviceman was stationed.

intangible property (including motor vehicles), and (b) the term "taxation" shall include but not be limited to licenses, fees, or excises imposed in respect to motor vehicles, or the use thereof: *Provided,* That the license, fee, or excise required by the State, Territory, possession, or District of Columbia of which the person is a resident or in which he is domiciled has been paid.

As the Mississippi court apparently recognized, the definition of "personal property" in subsection (a) is not limited by the proviso to the section. This definition, including the parenthetical reference to motor vehicles, clarifies without extending the coverage of Section 514(1). It was taken from an earlier bill which contained the specific reference to motor vehicles but which made no attempt to grant immunity from, or otherwise deal with, licensing requirements for motor vehicles in the various States. H.R. 4733, 78th Cong., 2d Sess.; Appendix B, *infra,* p. 25.

The proviso is plainly a limitation on the effect of subsection (b), which extends the scope of the exemption granted by Section 514(1). By its terms, Section 514(1) deals unmistakably and explicitly with "taxation in respect of * * * personal property, income, or gross income." This alone would prohibit a personal property tax on the value of a motor vehicle. Section 514(1) does not, however, grant an exemption from privilege taxes imposed for the use of a State's highway system—the form which motor vehicle licensing requirements have traditionally and generally taken. See *infra,* p. 11. Such an exemption was

added in 1944 by Section 514(2)(b), which states that "the term 'taxation' shall include but not be limited to licenses, fees, or excises imposed in respect to motor vehicles or the use thereof." The proviso that immediately follows this clause granting a new exemption was obviously intended to condition and limit the new exemption, and nothing else. Repeating the very words of the new grant of exemption from "licenses, fees, or excises" on motor vehicles, the proviso conditions the grant on a showing that "the license, fee, or excise required by the State * * *of which the person is a resident * * * has been paid."

In short, the language and structure of Section 514(2) shows that the proviso is only a condition of the exemption from State motor-vehicle license fees granted by subsection (b). If the proviso is not satisfied, there is no exemption from license fees. Because the proviso is not a condition of the exemption from personal property and income taxes granted by Section 514(1), a failure to satisfy the proviso has no effect on these exemptions.

B. THE PURPOSE OF SECTION 514(2)(b) FURNISHES NO SUPPORT FOR THE HOLDING BELOW

Section 514(2)(b) serves two purposes. First, by extending the exemption from taxation by a State to which a serviceman is assigned to include motor-vehicle license fees, it prevents the States from subjecting servicemen to the burden of multiple licensing fees simply because of movements required by military orders. Congress accomplished this purpose with regard to ordinary personal property taxation by saving "the sole right of taxation to the state of original

residence." *Dameron* v. *Brodhead*, 345 U.S. 322, 326. But this policy could not safely be applied to motor-vehicle licensing without the addition of the further condition found in the proviso.

The States in which a serviceman operates his motor vehicle have a close interest in it, arising from the maintenance and regulation of the highways which he uses. The States have required the registration of motor vehicles and payment of privilege taxes since before 1920. *Tax Overlapping in the United States, 1964*, Advisory Commission on Intergovernmental Relations (U.S. Govt. Printing Office, 1964), pp. 21, 24. In 1944, when Congress amended Section 514 to deal with motor-vehicle licenses, fees, and excises, all States had statutes requiring the registration of motor vehicles, payment of license fees, and display of license plates. See Appendix C, *infra*, pp. 28–30.

If Congress had simply forbidden the State where a serviceman was stationed from imposing a license fee with respect to the motor vehicle or its use (*i.e.*, if Congress had not added the proviso to Section 514(2)(b)), the immediate result would have been that a serviceman stationed in a State other than his home State would probably not have had to comply with the licensing requirements of any State. Section 514 would exempt him from the requirements of the State in which he was stationed; and, since he was not using the highways of his home State, that State would not require him to register his vehicle and pay privilege taxes. He would have little incentive to register voluntarily and pay taxes. Moreover,

since the payment of highway privilege taxes is a universal prerequisite to the registration of motor vehicles and the issuance of license plates, the State in which he was stationed might well have unlicensed vehicles using its highways with all of the accompanying problems of identification for theft and accident purposes.

By providing in Section 514(2) an exemption to a non-resident serviceman from the motor vehicle licenses, fees, and excises of the State in which he is operating his vehicle conditioned upon his payment of the motor vehicle privilege taxes of his home State, Congress insured that a serviceman stationed away from his home State would pay motor vehicle privilege taxes either to his home State or to the State in which he was on military duty. No vehicles belonging to servicemen stationed away from their State of domicile would be using the highways without license plates.

In short, Section 514(2)(b) was intended to deal with the problem of motor vehicle licenses in all its facets. First, the possibility that a motor vehicle privilege tax might not be considered a tax on the serviceman's personal property (and thus that, despite Section 514(1), the serviceman might be subjected to multiple license fees simply because of his military orders) was foreclosed by defining the prohibited taxation of personal property, to "include * * * licenses, fees, or excises imposed in respect to motor vehicles or the use thereof." Then, to protect the legitimate State interest in licensing requirements for motor vehicles, Congress provided that the exemp-

tion should apply only if "the license, fee, or excise required by the State * * * of which the [serviceman] is a resident * * * has been paid." However, nothing in these problems or their solution involves treating a serviceman's motor vehicle differently from any of his other personal property for purposes of an *ad valorem* tax imposed by the State in which the serviceman is stationed. The policy adopted in Section 514(1)—that he need only pay the personal property taxes, if any, of his home State—remains inviolate. It is unaffected by the limited statutory authorization of motor-vehicle privilege taxes, enacted in recognition of the interest of States in maintaining and policing their highways.[8]

* * * * *

Thus, both the language and the purposes of Secton 514 demonstrate that the Section unconditionally bars a State from applying its personal property tax to the property of a serviceman stationed within its borders. Since, as the Mississippi Supreme Court held, the tax in issue in this case is an *ad valorem* personal property tax, Section 514 bars Mississippi from imposing it on petitioner's trailer.

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[8] It is hardly necessary to add that the construction given the proviso by the court below makes no sense as a matter of policy. A failure to pay the license tax required by South Carolina would subject Sergeant Snapp to the Mississippi tax on his personal property, while failure to pay South Carolina's personal property tax on motor vehicles would have no such effect.

III. THE MISSISSIPPI TAX IS ALSO INVALID BECAUSE IT IS NOT AN EXCISE "IMPOSED IN RESPECT TO MOTOR VEHICLES, OR THE USE THEREOF" WITHIN THE MEANING OF THAT PHRASE IN SECTION 514(2)(b)

Section 514(1) grants petitioner an exemption from any tax "with respect to personal property, *or the use thereof*" (emphasis added). The only exception to this general prohibition of a State tax on Snapp's use of his own personal property is that found in Section 514(2)(b), which allows a State to impose a license or excise tax "in respect to motor vehicles or the use thereof" if no such tax has previously been paid to the home State, here South Carolina. It is thus clear that even if Mississippi had imposed a privilege tax, rather than an *ad valorem* tax, the tax would be permissible only if it were on the use of a "motor vehicle" as that term is used in the federal statute.

Whether an immobilized house trailer is a "motor vehicle" cannot be answered by simply looking to familiar definitions of that term. Such definitions regularly are framed in terms of use to transport people or goods, but they do not make clear whether it is sufficient that the object is capable of such use, or whether it is also necessary that the object actually is used for these purposes. The meaning of the statutory phrase, as applied to an immobilized house trailer must, then, be found in the purposes of Section 514(2)(b).

As we have shown above, the necessity for adding a specific reference to motor-vehicle licensing statutes arose both from the fact that such statutes are almost uniformly written as taxes on the privilege of using

public highways (rather than the serviceman's personal property)[4] and from the additional fact that the practicalities of regulation of public roads required that any exemption from a licensing requirement would have to be conditional on the serviceman's actually having obtained a license from his home State. In light of these purposes, it is evident that Congress had reference to the familiar State taxes on the privilege of using public roads when, in Section 514(2)(b), it conditionally authorized a State in which a serviceman was stationed to require the payment of license fees "in respect of motor vehicles."

The purposes of Congress in enacting Section 514 would in no way be served by construing subsection 2(b) as authorizing a tax on a wholly immobile trailer such as Sergeant Snapp's. Congress had no intention of distinguishing between a tax on the use of any other form of property and a tax described in subsection 2(b) except insofar as the latter laws protect the States' interest in charging for, and regulating the use of, their roads. The conditional grant of permission for a State in which a serviceman is stationed to impose a license fee for the use of "motor vehicles"

[4] In 1944, when Congress amended Section 514 to deal with motor vehicle licenses, only six States (Arkansas, Georgia, Illinois, Nebraska, Oklahoma, and Wyoming), together with Alaska, had a licensing requirement that was not dependent upon use of the highways, and three of those States (Arkansas, Illinois, and Oklahoma) and Alaska based their requirement upon use of the vehicle. See Appendix C, pars. 3 and 4, *infra*, p. 30. The other 42 States, as well as Hawaii and the District of Columbia, imposed taxes on the privilege of using the public roads. See Appendix C, pars, 1 and 2, *infra*, pp. 28–29.

was solely intended to recognize the legitimate concern of the States in regulating and maintaining their highways. In light of this purpose, Congress could not have intended a distinction between a tax on the use of an immobile trailer and a tax on the use of any other property which did not affect public roads. Thus, if the statutory authorization of a privilege tax "in respect to motor vehicles" is read in light of the statute's purpose, it does not permit a tax on an immobile trailer such as that involved in this case.

CONCLUSION

For the reasons stated above, the judgment of the Supreme Court of Mississippi should be reversed.

Respectfully submitted.

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AUGUST 1965.

APPENDIX A

Soldiers' and Sailors' Civil Relief Act of 1940, c. 888, 54 Stat. 1178:

SEC. 514 [as added by Sec. 17, Soldiers' and Sailors' Civil Relief Act Amendments of 1942, c. 581, 56 Stat. 769; and as amended by Sec. 1, Act of July 3, 1944, c. 397, 58 Stat. 722; and Act of October 9, 1962, P.L. 87-771, 76 Stat. 768].[1]

(1) For the purposes of taxation in respect of any person, or of his *personal* property, income, or gross income, by any State, Territory, possession, or political subdivision of any of the foregoing, or by the District of Columbia, such person shall not be deemed to have lost a residence or domicile in any State, Territory, possession, or political subdivision of any of the foregoing, or in the District of Columbia, solely by reason of being absent therefrom in compliance with military or naval orders, or to have acquired a residence or domicile in, or to have become resident in or a resident of, any other State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia, while, and solely by reason of being, so absent. For the purposes of taxation in respect of the *personal property,* income, or gross income of any such persons by any State, Territory, possession, or political subdivision of any of the foregoing, or the District of Colum-

[1] For the convenience of the Court, we have italicized the provisions of Section 514 which were added to it by the 1944 Act. In other words, the unitalicized portions constitute Section 514 as it was enacted in 1942 and as it stood prior to the amendments made by the 1944 Act with the caveat that the unitalicized portions in brackets were added in 1962.

bia, of which such person is not a resident or in which he is not domiciled, compensation for military or naval service shall not be deemed income for services performed within, or from sources within, such State, Territory, possession, political subdivision, or District, and *personal property shall not be deemed to be located or present in or to have a situs for taxation in such State, Territory, possession, or political subdivision, or district.* [Where the owner of personal property is absent from his residence or domicile solely by reason of compliance with military or naval orders, this section applies with respect to personal property, or the use thereof, within any tax jurisdiction other than such place of residence or domicile, regardless of where the owner may be serving in compliance with such orders:] *Provided, That nothing contained in this section shall prevent taxation by any State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia in respect of personal property used in or arising from a trade or business, if it otherwise has jurisdiction.* This section shall be effective as of September 8, 1939, except that it shall not require the crediting or refunding of any tax paid prior to *October 6, 1942.*

(2) *When used in this section, (a) the term 'personal property' shall include tangible and intangible property (including motor vehicles), and (b) the term 'taxation' shall include but not be limited to licenses, fees, or excises imposed in respect to motor vehicles or the use thereof: Provided, That the license, fee, or excise required by the State, Territory, possession, or District of Columbia of which the person is a resident or in which he is domiciled has been paid.*

(50 U.S.C. App. 574.)

7A Mississippi Code, 1942, Annotated (Recompiled 1952):

§ 9883. *Ad valorem tax—municipal general levy.*

Municipalities may levy taxes in an amount not exceeding fifteen (15) mils on the dollar of the assessed valuation of all taxable property within such municipality for general revenue purposes and for general improvements. Provided, however, the governing authorities of any municipality may make additional levies for special purposes as authorized by law, provided the aggregate of all such special levies does not exceed the limitation prescribed therefor by law.

* * * * *

7A Mississippi Code, Annotated (Recompiled 1952, 1964 Cum. Supp.):

§ 9877. *State ad valorem tax levy.*

A state ad valorem tax of four (4) mills on the dollar for the year 1958 and for each year thereafter is hereby levied on all taxable property in the State of Mississippi.

* * * * *

§ 9879. *Ad valorem taxes—general county levy.*

The board of supervisors of any county is hereby empowered to levy ad valorem taxes on taxable property in the respective counties in any one (1) year, as shown by the assessment roll containing assessments of property made as of January first of the year, and the assessment of motor vehicles as made according to the provisions of the "Motor Vehicle Ad Valorem Tax Act of 1958" (Sections 10007-01 et seq., Mississippi Code of 1942, Recompiled), for all general county purposes, exclusive only of levies for roads and bridges and schools, at the rate herein specified, but not in excess of the following amounts or rates:

* * * * *

§ 10007–51. *Purpose of Act.*

The purpose of this act is, with reference to assessing and collecting ad valorem taxes on house trailers, to (a) fix the taxable year, (b) fix the lien date, (c) determine the method of assessing, (d) fix the dates for assessing such taxes, (e) prescribe the method of collecting such taxes, and (f) to fix the dates for collecting such taxes.

§ 10007–52. *Definitions.*

The subject words and terms of this section, for the purposes of this act, shall have meanings as follows:

(a) The term "house trailer" shall mean and include any trailer-type vehicle or mobile home, designed and constructed so as to be suitable for use for domestic, commercial, or industrial purposes, and which is constructed so that it may be moved from place to place over the highways and streets by being supported by two (2) or more wheels, and drawn or moved by motive power not its own, and which house trailer is not taxed under authority of chapter 588, laws of 1958 [§§ 10007–01 et seq.].

(b) The term "person" shall mean any natural person, agency, firm, copartnership, corporation, joint stock, or other association or organization.

§ 10007–53. *Registration of fee—report and payment—proration of tax.*

Any person owning, occupying, using, or having in his possession or control a house trailer shall, not later than the last day of November each year, register such house trailer with the sheriff of the county in which it is located on such date. At the time such registration is made, and before a registration certificate and label may be issued, the said owner, occupant, user, possessor, or controller of said house trailer shall pay a registration fee of two dollars and fifty cents ($2.50) together with all ad

valorem taxes due on said house trailer for the then fiscal year. Fifty cents (50¢) of this fee shall be retained by the sheriff, one dollar ($1.00) shall be paid into the general county fund, and one dollar ($1.00) of this fee shall be forwarded to the tax commission to cover cost of labels, tax receipt forms, etc., as hereinafter provided.

APPENDIX B

I. Committee Reports pertaining to the 1942 amendment adding Section 514 to the Soldiers' and Sailors' Civil Relief Act of 1940:

H. Rep. No. 2198, 77th Cong. 2d Sess., p. 6:

* * * * *

SECTION 17

Section 17 is designed to prevent multiple State taxation of the property and income of military personnel serving within various taxing jurisdictions through no choice of their own. Under present State laws the personal property and income of such persons may become liable for taxes in several States within the same calendar year.

The section is retroactive as to collection of such taxes to September 8, 1939, the date of the President's declaration of a limited emergency. Since that date military personnel have been transferred from place to place often [*sic*] than in normal times.

* * * * *

S. Rep. No. 1558, 77th Cong., 2d Sess., p. 11, contains identical language.

II. Committee Reports pertaining to the 1944 amendment to Section 514 of the Soldiers' and Sailors' Act of 1940:

H. Rep. No. 1514, 78th Cong., 2d Sess., pp. 1–2:

The Committee on Military Affairs, to whom was referred the bill (H. R. 4733) to amend section 514 of the Soldiers' and Sailors' Relief Act, having considered the same, submit the

following report thereon, with the recommendation that it do pass with the following amendment:

Strike out all after the enacting clause and insert the following language:

[Here follows Sec. 514, as amended by the Act of July 3, 1944, *supra.*]

GENERAL COMMENT

When the Soldiers' and Sailors' Civil Relief Act of 1940 was amended by the act of October 6, 1942, a provision was written into the act to relieve persons in the service from liability of double taxation by being moved from one State to another under orders. It was intended that this should apply to personal property taxes as well as income taxes. However, it has been held that under the wording of such amendment personal property taxes were not included. The result has been that servicemen find themselves at times subjected to personal property taxes in more than one State by reason of being moved under orders.

The purpose of the present act is to correct this situation and to give to the servicemen the same protection as to personal property taxes that they now have as to income taxes.

S. Rep. No. 959, 78th Cong., 2d Sess., pp. 1–5:

The Committee on Military Affairs, to whom was referred the bill, H. R. 4733, to amend section 514 of the Soldiers' and Sailors' Civil Relief Act, having considered the same, submit the following report thereon, with the recommendation that it do pass.

The purpose of the proposed legislation is to clarify the intent of section 514 of the Soldiers' and Sailors' Civil Relief Act as added by section 17 of the act of October 6, 1942 (56 Stat. 769, 777). When that provision of law was added to the act to relieve persons in service from liability of double taxation by being

moved from one State to another under orders, it was intended that it should apply to personal-property taxes as well as to income taxes. As presently constituted, it primarily affects taxes in respect to income and other taxes based on residence or domicile, but it does not prevent the State of "temporary residence" from taxing tangible personal property actually located in such State so long as the tax does not depend on residence or domicile. A few States have taken the position that tangible personal property of military personnel who are only temporarily within their jurisdiction does not acquire a situs for taxation, but it has been held that section 514 of the act as now written does not affect the right of a State to assess personal-property taxes on property within its jurisdiction. The result has been that servicemen find themselves at times subjected to personal-property taxes on the same property in more than one State during the same calendar year by reason of being moved under orders.

Your committee considers that the existing law pertaining to State taxation of the personal property of persons in military service present in the various States in compliance with military orders should be clarified; that the military personnel concerned should not be subjected to multiple taxation of personal property by the various States and should be given the same protection as to personal property taxes as is now provided in respect of income taxes.

Letter of the War Department follows:

WAR DEPARTMENT,
Washington, June 9, 1944.

Hon. ROBERT R. REYNOLDS,
Chairman, Committee on Military Affairs, United States Senate.

DEAR SENATOR REYNOLDS: The War Department has no objection to the enactment of H.R. 4733, Seventy-eighth Congress, an act

to amend section 514 of the Soldiers' and Sailors' Relief Act.

The purpose of the proposed legislation is to prevent the multiple taxation of the personal property of military personnel by the various States, which it is understood was one of the purposes of section 514 of the Soldiers' and Sailors' Civil Relief Act as added by the act of October 6, 1942 (56 Stat. 769, 777).

As presently worded, section 514 of the act primarily affects taxes in respect of income and other taxes based on residence or domicile. Nothing in that section prevents the State of "temporary residence" from taxing tangible personal property actually located in such State, so long as the tax does not depend on residence or domicile. A few States, however, have taken the position that tangible personal property of military personnel who are only temporarily within their jurisdictions does not acquire a situs for taxation.

The proposed legislation will not result in any additional cost to the Government.

The Bureau of the Budget advised with respect to a similar report on H.R. 4733 to the Committee on Military Affairs, House of Representatives, that there was no objection to its submission to the Congress.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

The report of the House Military Affairs Committee (Rept. No. 1514) is appended hereto and made a part of this report.

* * * * * *

H.R. 4733, 78th Congress, 2d Session, as referred by the House Committee on Military Affairs, would have amended Section 514 to read as follows (H. Rep. No. 1514, 78th Cong., 2d Sess., pp. 2–3):

SEC. 514. (1) The income, gross receipts, and personal property, tangible or intangible (in-

cluding automotive vehicles), of any person in the military service shall not be subject to taxation by any State, Territory, possession, political subdivision thereof, or the District of Columbia, by reason of (a) his temporary residence, (b) receipt of income or gross receipts, or (c) the temporary location of personal property, within a State, Territory, possession, political subdivision thereof, or the District of Columbia: *Provided,* That nothing contained in this section shall prevent the State, Territory, possession, political subdivision thereof, or the District of Columbia, wherein a person in the military service resided or was domiciled prior to the time when he first acquired a temporary residence, as defined herein, from imposing a tax upon the income, gross receipts, or personal property of such persons, if it otherwise has jurisdiction to impose such tax: *And provided further,* That nothing contained in this section shall prevent a State, Territory, possession, political subdivision thereof, or the District of Columbia from imposing taxes upon income or gross receipts, other than compensation for military service, derived from sources therein, nor from imposing a tax on personal property situated therein other than at a temporary location, as herein defined.

(2) After the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942, no State, Territory, possession, political subdivision thereof, or the District of Columbia shall make claim for, collect, or receive from any person in the military service any tax made inapplicable by subsection (1) hereof and which has accrued subsequent to the declaration of the national emergency made by the President on September 8, 1939; but the refund of taxes collected or received prior to such effective date shall not be required by the provisions of this section.

(3) This section shall not be deemed in any manner to authorize any State, Territory, possession, political subdivision thereof, or the District of Columbia to impose any tax upon personal property located in or on any Federal area.

(4) (a) When after September 8, 1939, a person in the military service has changed his physical residence in order to comply with military orders he shall be deemed to have acquired a "temporary residence"; except that for purposes of taxation by a State, Territory, possession, or the District of Columbia he shall be deemed to have acquired a "temporary residence" only if he shall have moved outside the exterior boundaries of such State, Territory, possession, or the District of Columbia.

(b) Personal property shall be deemed to have a "temporary location" when a person in the military service has such property at his "temporary residence" or when, on changing from one "temporary residence" to another, he leaves it at a previous "temporary residence".

(c) The term "Federal area" means any lands or premises owned or acquired by or for the use of the United States or any department, establishment, or agency of the United States.

APPENDIX C

1. State statutes requiring the registration of motor vehicles used on the highways "of this State" or "in this State":

Code of Alabama (1940), Title 36, Secs. 75 and 75(1) and Title 51, Sec. 693; 5 Arizona Code (1939), Secs. 66–204, 66–208 and 66–256; 2 Colorado Statutes Annotated (1935), c. 16, Secs. 106, 110, 111 and 121; Revised Code of Delaware (1935), Secs. 5545(a), 5550 and 5564; 1 Florida Statutes (1941), Secs. 320.02, 320.03 and 320.08; 3 Idaho Code (1932), Secs. 48–107 (a) and 48–113, *id.* (1940 Supp.), Sec. 48–127; 8 Burns Indiana Statutes (1933) (1940 Repl. Vol.), Secs. 47–102, 47–104 and 47–110; General Statutes of Kansas (1935), Secs. 8–127, 8–132 and 8–143; 4 General Statutes of Louisiana (1939), Secs. 5160, 5164 and 5179; Compiled Laws of Michigan (1929) (1945 Supp.), Secs. 4633, 4635 and 4638; 1 Minnesota Statutes (1941), Secs. 168.06, 168.09 and 168.12; 7 Mississippi Code (1942), Secs. 9354, 9358 and 9359; 18 Missouri Revised Statutes Annotated (1942), Secs. 8369 and 8377; 1 Revised Code of Montanta (1935) (1939 Supp.), Secs. 1759, 1759.5 and 1760; 1 Revised Laws of New Hampshire (1942), c. 116, Secs. 7 and 9, and c. 118, Sec. 1; 2 Revised Statutes of New Jersey (1937), Sec. 39:3–8, *id.* (1944 Cum. Supp.), Secs. 39:3–4 and 39:3–33; 5 New Mexico Statutes (1941), Secs. 68–202, 68–212 and 68–226; 2 Thompson's Laws of New York (1939), Vehicle & Traffic Law, Sec. 11; North Carolina Code (1939), Secs. 2621(200) and 2621(237); 4 North Dakota Revised Code (1943), Secs. 39–0403, 39–0411 and 39–0422; 4A Page's Ohio

General Code (1945 Repl. Vol.), Secs. 6291, 6292, 6294 and 6298; 8 Oregon Compiled Laws Annotated (1940) (1943 Pocket Part), Secs. 115–102, 115–105 and 115–110; Purdon's Pennsylvania Statutes (1936), Title 75, Secs. 91 and 271; 3 Code of Laws of South Carolina (1942), Sec. 5893; 3 South Dakota Code (1939), Secs. 44.0102, 44.0104 and 44.0107; 2 Williams Tennessee Code (1934) (1943 Repl. Vol.), Secs. 1152.3, 1152.4 and 1152.10; Vernon's Texas Statutes (1936), Arts. 6675a–4 and 6675a–5, *id.* (1942 Supp.), Art. 6675a–2, *id.* (1943 Supp.), Art. 6675a–13; Virginia Code (1942), Secs. 2154(59), 2154(67) and 2154(82); 7A Remington's Revised Statutes of Washington (1937 Repl. Vol.), Secs. 6312–15 and 6312–16; and 1 West Virginia Code (1943), Secs. 1487, 1488 and 1495. See also 2 District of Columbia Code (1940), Secs. 40–102—40–104.

2. State statutes requiring the registration of motor vehicles using "a highway" or "any highway":

Derring's California Codes (1948), Vehicle Code, Secs. 140, 141, 156, 370 and 371.5; 1 General Statutes of Connecticut (1930), Secs. 1558, 1565 and 1578, as amended; Code of Iowa (1939), Secs. 5001.01, 5001.18, and 5008.01; Kentucky Revised Statutes (1944), Secs. 186.020, 186.040 and 186.050; 1 Revised Code of Maine (1944), c. 19, Secs. 13, 15 and 17; Annotated Code of Maryland (1939) (1943 Supp.), Art. 66 1/2, Secs. 21(a), 28 and 74; 1 General Laws of Massachusetts (1932), c. 90, Secs. 2, 6, 9 and 33; 2 Nevada Compiled Laws (1929), Secs. 4376, 4378 and 4383; Rhode Island Laws (1938), c. 86, Secs, 2 and 8; 3 Utah Code (1943), Secs. 57–3a–19, 57–3a–43 and 57–3a–133; Public Laws of Vermont (1933), Secs. 5018, 5021, and 5047; and Wisconsin Statutes (1943), Sec. 85.01(1), (4) and (6). See also Revised Statutes of Hawaii (1935), Secs. 2157 and 2665.

3. State statutes requiring the registration of every motor vehicle "driven" or "operated in this State":

1 Digest of the Laws of Arkansas (1937), Secs. 6605, 6610 and 6615; 15 Jones Illinois Statutes Annotated (1934), Secs. 85.008 and 85.105; Oklahoma Statutes (1941), Title 47, Secs. 22.3–22.5. See also Compiled Laws of Alaska (1933), Secs. 3151, 3153 and 3158.

4. State statutes requiring "every owner of a motor vehicle" to register it:

Georgia Code (1933), Secs. 68–201, 68–211 and 68–214; Compiled Laws of Nebraska (1929) (1941 Cum. Supp.), Secs. 60–302, 60–307 and 60–330; and 4 Wyoming Compiled Statutes (1945), Secs. 60–104, 60–106 and 60–117.

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